



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,995	10/31/2001	Kazuyuki Shinno	101188-34	7355

27387 7590 05/14/2004

BRUCE LONDA
NORRIS, MCLAUGHLIN & MARCUS, P.A.
220 EAST 42ND STREET, 30TH FLOOR
NEW YORK, NY 10017

EXAMINER

MOAZZAMI, NASSER G

ART UNIT	PAPER NUMBER
----------	--------------

2187

DATE MAILED: 05/14/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

22

Office Action Summary

Application No.

09/998,995

Applicant(s)

SHINNO, KAZUYUKI

Examiner

Nasser G Moazzami

Art Unit

2187

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The Information Disclosure Statement submitted by applicant on 11/30/2001 has been considered. Please see attached PTO-1449.

Specification

3. Claims 1-10 is presented in this application for examination.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 2187

5. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimura (U.S. Patent No. 6,370,687).

As per claim 1, Shimura discloses a data storage system comprising at least one data sending/receiving node [**clients 14-1 through 14-4 (see Fig. 2)**] and a relay node [**substitute compiler server 10 (see Fig. 2)**] being provided between said data sending/receiving node and a network which is for relaying data between said data sending/receiving node and said network [**network 18 (see Fig. 2)**], comprising: a meta-data registering means for registering data processes which should be conducted in said relay node as meta-data [**the substitute compile server grasps the execute form of the client in advance (column 2, lines 35-36)**], and a data processing means for conducting data process in accordance with the processes defined by the meta-data registered in said meta-data registering means [**see column 6, lines 57-65**]; wherein meta-data designated by said data sending/receiving node is selected from said meta-data registering means, and data sent from said data sending/receiving node or data received by said data sending/receiving node are processed in accordance with the processes defined by the selected meta-data [**substitute compile server complies the virtual machine computer program depending on the execute form of the requester client (column 2, lines 36-38); byte code of the Java program complied into a machine code of native environment conforming to the execution environment of the client issuing the request (column 4, lines 45-48)**].

As per claims 2-4, Shimura discloses converting the data format from one format to another format whether it is from the sending/receiving node to a destination or from the destination to the sending/receiving node **[see column 4, line 52 through column 5, line 26]**.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimura in view of Khan et al., hereinafter Khan (U.S. Patent No. 6,199,054).

As per claims 9-10, Shimura discloses the claimed invention, but fails to specifically disclose a charge calculating means for calculating a charge for using the system based on the number of time and/or the type of the process and based on using the amount of computer resources.

Khan discloses a method for dynamically computing and assessing cost associated with the services provided by a service provider, wherein the charge calculation are based on number of parameters, including size of the document, type of the document, type of encryption, the type of services the user subscribes or based on the payload in order to have flexible, secure and fair charge calculation to the user **[column 2, lines 3-4, and 20-30; and column 4, line 59 through column 5, line 8]**.

Allowable Subject Matter

8. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Application No. 2002/0094070 (Mott et al.)

U.S. Application No. 2001/0028363 (Nomoto et al.)

U.S. Patent No. 6,173,407 (Yoon et al.)

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser G Moazzami whose telephone number is (703) 305-0017. The examiner can normally be reached on 7:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (703) 308-1756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2187

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NASSER MOAZZAMI
PRIMARY EXAMINER



05/11/2004